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File No. Money Lenders II 47

Legal DEPARTMENT

B BRANCH

Subject:—

Rules and Notifications under the Bombay Money Lenders Act, 1946.

To be Kept in C.R.O.

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Notification.

Revenue Department.

Bombay Castle, 1947.

Bombay Money-lenders Act, 1946.

No.4312/45.- The ~~draft~~ following draft of a notification which it is proposed to issue under section 39 of the Bombay Money-lenders Act, 1946 (Bom.XXXI of 1947), is published as required by sub-section (3) of the said section 39 for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration by the Government of Bombay on or after * 1947.

*To be filled in by R.D.

2. Any objection or suggestion which may be received by the Secretary to the Government of Bombay in the Revenue Department from any person with respect to the said draft on or before the aforesaid date will be considered by Government.

Draft Notification.

In exercise of the powers conferred by section 30 of the Bombay Money-lenders Act, 1946 (Bom.XXXI of 1947), the Government of Bombay is pleased to make the following rules, namely:-

1. Short title:- These rules may be called the Bombay Money-lenders Rules, 1947.

2. Definitions:- In these rules, unless there is anything repugnant in the subject or context:-

(a) "Act" means the Bombay Money-lenders Act, 1946;

(b) "Form" means a form appended to these rules; and

(c) "Section" means a section of the Act.

3. Register of money-lenders:- The register of money-lenders required to be maintained under section 4 shall be in Form No.1.

4. Application for licence:- (1) A money-lender

desiring

desiring to carry on the business of money-lending in any area shall make an application in Form No.2 to the Assistant Registrar concerned. The application shall be delivered at the office of the Assistant Registrar during office hours either personally by the applicant or through an agent duly authorised in writing in this behalf or sent by registered post addressed to the Assistant Registrar.

(2) An application for the grant of a licence for the first time may be made on any date but an application for renewal of licence shall be made in the month of May preceding the year for which the licence is to be renewed.

(3) Every application shall be accompanied by an affidavit of the applicant that the applicant or any person responsible or proposed to be responsible for the management of his business of money-lending has not knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending or been found guilty of an offence under Chapter XVII or section 465, 477 or 477-A of Chapter XVIII of the Indian Penal Code.

5. Procedure for summary inquiry under section 7:- The Assistant Registrar shall make the summary inquiry under section 7 by examining the applicant personally and such other person, as he may deem fit in order to satisfy himself about the bona fides of the applicant and his suitability for carrying on the business of money-lending. The Assistant Registrar shall maintain a record of such inquiry and shall sign below the same. The record shall contain a brief memorandum of the substance of evidence taken and a summary of the

conclusions

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conclusions regarding facts elicited during the inquiry.

6. Form of licence:- The licence under section 7 shall be in Form No.3.

7. Manner of payment of licence fee:- The licence fee of Rs.5/- fixed under section 7 shall be paid within such period as may be fixed by the Registrar in that behalf either in cash at the Registrar's office or by remitting it by postal money order addressed to the Registrar or by crediting to Government at a treasury, sub-Treasury or the Reserve Bank of India, Bombay and sending the receipted chalan to the Registrar.

8. Reasons for refusing to grant licence to be communicated to applicant:- If a Registrar refuses to grant a licence, he shall communicate to the applicant his reasons for so doing.

9. Appeal against order of Registrar refusing to grant licence:- (1) An appeal under sub-section (3) of section 8 against the order of a Registrar refusing to grant a licence shall be instituted within 60 days from the date on which the order is communicated to the applicant.

(2) The Registrar General shall decide the appeal after hearing the appellant or his pleader, as the case may be.

10. Forms of cash book, ledger and of statement under section 18:- The cash book and ledger to be maintained by a money-lender under sub-section (1), and the statement under clause (a) of sub-section (2), of section 18 shall be in Forms Nos.4, 5 and 6 respectively.

11. Annual statement of accounts to be delivered by money-lender to debtor etc. under section 19:-

(1) The annual statement of accounts to be delivered by a money-lender to each of his debtors under sub-section (1)

of

of section 19 shall be in Form No.7.

(2) The statement shall be furnished to each of the debtors within sixty days after the close of the year for which the accounts of the money-lender are ordinarily maintained.

(3) The fee to be paid by a debtor to a money-lender for supplying a statement of accounts under sub-section (3) of section 19 shall be annas eight.

(4) The expenses to be recovered from a debtor for supplying copies of documents by a money-lender under sub-section (3) of section 19 shall be according to the following scale:-

For copying 100 words or fraction thereof ... One anna.

For copying 100 words or fraction thereof of tabular statement ... Two annas.

Cost of paper ... 1/4 anna per sheet of foolscape size.

12. Notice and information to be given on assignment on loans:- The notice to be given to an assignee under clause (a), the statement of information to be supplied to an assignee under clause (b), and the notice to be given to the debtor under clause (c), of sub-section (1) of section 27, shall be in the Forms Nos.8, 9 and 10 respectively.

13. Form of application under section 30:- The application to be made by a debtor under sub-section (1) of section 30 shall be in Form No.11 and shall be accompanied by a court-fee of Rs.1/-.

Office of the R.L.A.

A revised draft notification is sent herewith.

2. In my opinion the provision in rule 9 regarding stamping of the appeal memo. is unnecessary. The levy is made under the provisions of a separate statute, namely, the Court-fees Act, 1870, and it is both redundant and inappropriate to repeat the provisions in these Rules. The provision has, therefore, been omitted. Rule 15 is in my opinion ultra vires. The rule as framed confers power on the officers to have access at all times to the books and records of money-lenders. There is no provision in the Act which confers such wide powers on the officers and authorises the making of such a rule conferring such powers. I do not think that the provisions of clause (g) of section 39(2) can be held to be wide enough to authorise the making of such a rule. The rule has, therefore, been deleted. Rule 16 follows rule 15 and has consequently been deleted.

3. The other changes made in the draft notification are affected from the drafting point of view. The Revenue Department is requested to verify whether they are in order from the administrative point of view.

Sd. D.V.Vyas
Remembrancer of Legal Affairs.

D.O.No. to D.D., No.7490, dated the 21st July 1937.

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